



Executive Council of
Physical Therapy and Occupational Therapy Examiners

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Texas Board of Physical Therapy Examiners
Texas Board of Occupational Therapy Examiners

333 Guadalupe, Suite 2-510
Austin, Texas 78701-3942
Voice 512/305-6900
Fax 512/305-6951

March 9, 1998

RQ-1110 RECEIVED

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Opinion Committee

General Dan Morales
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
ATTN: Opinion Committee

Re: *Whether board members may concurrently serve as an elected member and non-elected chairman of a standing committee in a Texas trade organization.*

Dear General Morales,

The purpose of this letter is to request an opinion from your office concerning three members of the Texas Board of Physical Therapy Examiners. One board member holds an elected membership position on the nominating committee, and two board members hold non-elective chairman positions on standing committees of the Texas Physical Therapy Association (TPTA), a Texas trade association. They held these TPTA positions prior to their nomination as members of the Texas Board of Physical Therapy Examiners, and continue to hold them while serving on the board.

The only legal reference that we are aware, which addresses the board and trade associations, is in the Texas Physical Therapy Act (Article 4512e, V.T.C.S.). It states the following:

§C. Conflict of Interest Restrictions

(a) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a board member.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a board member.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

All three board members informed the Governor's appointment office about their participation in the TPTA committees prior to nomination and were assured there was no conflict. When

contacted by the board members, the Ethics Commission also stated the same opinion. However, to ensure that there would be no perceived conflict of interest, these three board members felt that they should also obtain an Office of the Attorney General opinion on the issue.

Please advise if these board members may continue to serve as board members on the Texas Board of Physical Therapy Examiners, while concurrently holding the TPTA positions described above.

Thank you for your consideration of this request for an opinion from your office. Please contact me if you should require any further information concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Maline', with a long horizontal flourish extending to the right.

John Maline
Executive Director